IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9617 OF 2004

Babulal Fakhira Vasaikar & Ors. .. Petitioners.
Vs.
Manohar Shivram Ingle & Ors. .. Respondents.

Mr.Kuldeep S. Patil for the petitioners.

CORAM : D.B.BHOSALE, J.

DATED : 9TH DECEMBER, 2004

P.C.:

. Heard Mr.Patil, learned counsel for the petitioners.

2. The impugned order is challenged on two grounds. Firstly, that it was passed in the absence of the advocate for the petitioner and secondly, that since the trust is registered under Societies Registration Act, the application under section 50A(1) of the Bombay Public Trusts Act, 1950 was not maintainable. By the impugned order, the Asst. Charity Commissioner has rejected the aforementioned preliminary objection raised by the petitioner. Admittedly, the trust was also registered under the Bombay Public Trusts Act, 1950 and keeping that in view the Asst. Charity

Commissioner has held that it has a jurisdiction to try and decide application under section 50A(1). In so far as the first ground is concerned I gave an opportunity to Mr.Patil, learned counsel for the petitioner to address me on merits. Except the grounds mentioned above he did not raise any other ground. To my mind the Asst. Charity Commissioner has rightly rejected the preliminary objection for the reasons recorded in the impugned order. I find no reason to interfere with the impugned order which to my mind is just and proper. The writ petition, therefore, fails and is dismissed as such. It is open for the petitioners to contest application No.28/2003 filed under section 50A(i) of the Bombay Public Trusts Act. All contentions on merits are left open.

(D.B.Bhosale, J.)